

Dear Senators GOEDDE, Mortimer, Buckner-Webb, and  
Representatives DEMORDAUNT, Nielsen, Pence:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the  
State Board of Education - State Department of Education:

IDAPA 08.02.01 - Rules Governing Administration - Temporary and Proposed Rule (Docket No.  
08-0201-1402).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the  
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research  
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative  
Services. The final date to call a meeting on the enclosed rules is no later than 10/21/2014. If a meeting is  
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis  
from Legislative Services. The final date to hold a meeting on the enclosed rules is 11/19/2014.

The germane joint subcommittee may request a statement of economic impact with respect to a  
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,  
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has  
been held.

To notify Research and Legislation, call 334-4834, or send a written request to the address on the  
memorandum attached below.



Eric Milstead  
Director

# Legislative Services Office

## Idaho State Legislature

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*Serving Idaho's Citizen Legislature*

### MEMORANDUM

**TO:** Rules Review Subcommittee of the Senate Education Committee and the House Education Committee

**FROM:** Principal Legislative Research Analyst - Brooke Brouman

**DATE:** October 01, 2014

**SUBJECT:** State Board of Education - State Department of Education

IDAPA 08.02.01 - Rules Governing Administration - Temporary and Proposed Rule (Docket No. 08-0201-1402)

The State Board of and State Department of Education submit notice of temporary and proposed rule-making relating to Rules Governing Administration. The rule change corrects two technical errors relating to the formula for state reimbursement for exceptional child support units.

The Board states that the temporary adoption of the rule is appropriate because it confers a benefit by fixing technical errors in the rule. Negotiated rulemaking was not conducted because the rule is simple in nature. There is no negative fiscal impact on the state general fund as a result of this rulemaking.

A public hearing concerning this rulemaking will be held on Thursday, October 16, 2014, at 3:00 p.m. at the Idaho State Department of Education.

The proposed rule appears to be within the authority granted to the Board in Section 33-105, Idaho Code.

cc: State Board of Education - State Department of Education  
Luci Willits

**IDAPA 08 - STATE BOARD OF AND STATE DEPARTMENT OF EDUCATION**

**08.02.01 - RULES GOVERNING ADMINISTRATION**

**DOCKET NO. 08-0201-1402**

**NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE**

**EFFECTIVE DATE:** The effective date of the temporary rule is August 14, 2014.

**AUTHORITY:** In compliance with Section 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 33-1511(2), Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be held as follows:

**Thursday, October 16, 2014 - 3:00 p.m. (MDT)**

**Idaho State Department of Education  
650 West State Street, 2nd Floor  
Barbara Morgan Conference Room  
Boise, ID 83702**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

IDAPA 08.02.01.400.01.b. and 400.01.c. were approved in 1997. There are two technical errors in the portion of rule for Exceptional Child Support Units concerning the percentages. This change will correct the errors.

**TEMPORARY RULE JUSTIFICATION:** Pursuant to Section(s) 67-5226(1), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

The temporary rule confers a benefit by fixing technical errors in the rule.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased: None.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: NA

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted because this rule is simple in nature, making only a technical correction.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: NA

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the temporary and proposed rule, contact Tim Hill, State Department of Education, 208-332-6843, [tdhill@sde.idaho.gov](mailto:tdhill@sde.idaho.gov).

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 22, 2014.

DATED this 14th Day of August, 2014.

Tom Luna, Superintendent of Public Instruction  
State Department of Education  
650 West State Street, 2nd Floor  
Boise, Idaho 83720-0027  
Phone: (208) 332-6812  
Fax: (208) 334-2228

**THE FOLLOWING IS THE TEMPORARY RULE AND THE PROPOSED TEXT  
OF DOCKET NO. 08-0201-1402**

**(Only those Sections being amended are shown.)**

**400. SPECIAL EDUCATION FUNDING FOR DISTRICTS WITH APPROVED PROGRAMS.**

**01. Reimbursement for Exceptional Child Support Units.** State reimbursement provided by exceptional child support units is based on the following formula: (4-1-97)

**a.** Preschool students will generate funding based upon the weekly hours and minutes they are enrolled in special education. (4-1-97)

**b.** From the fall elementary enrollment of kindergarten through grade six (K-6), subtract elementary residential facility students and multiply the result by six one-hundredths (~~.06~~). Add the elementary residential facility students to the product. (Section 33-1002(4), Idaho Code.) (~~4-1-97~~)(    )

**c.** From the fall regular secondary enrollment of grades seven through twelve (7-12), subtract secondary residential facility students and multiply the result by fifty-five one-~~hundredths~~ thousandths (.055). Add the secondary residential facility students to the product. (Section 33-1002(4), Idaho Code.) (~~4-1-97~~)(    )

**d.** Add the juvenile detention facility students to the total. (4-1-97)

**e.** Use the exceptional child divisor to determine the number of exceptional child units. Secondary programs with a smaller divisor may use the smaller divisor for their secondary computation. (4-1-97)

**f.** Elementary and secondary exceptional child support units will be calculated using one hundred percent (100%) Average Daily Attendance (ADA); the ADA will be subtracted from their respective regular elementary and secondary administrative unit for computing the support unit. (4-1-97)

**02. Contracting for Educational and Related Services.** (Section 33-2004, Idaho Code) (4-1-97)

**a.** A school district which contracts for special education services with another agency may claim reimbursement up to a maximum amount of state funding, as annually determined by the State Department of Education, less the district's certified annual tuition rate. When any agency contracts for the education of exceptional children, all such children will be enrolled in the district of their residence and the agency will certify to the home school district the daily record of attendance of such student. (4-1-97)

**b.** For special education contracts between local school districts, the district receiving service will pay the district providing service the amount of the providing district's local annual tuition rate as certified under the provision of Idaho Code. The school district providing service will include students served within such contract within the total number of special education students used to calculate exceptional education support units. Charges for additional costs may be negotiated between the districts. (4-1-97)

**c.** The State Department of Education will determine if public and private schools and facilities meet state standards for an approved special education program. Any agency aggrieved by the Department of Education's final decision may appeal that decision to the State Board of Education. (4-1-97)